

FILED IN THE  
U.S. DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

1 Apr 02, 2025  
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SEAN F. McAVOY, CLERK

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF WASHINGTON

UNITED STATES OF AMERICA,

No. 4:24-CR-06031-MKD-2

Plaintiff,

ORDER ACCEPTING REPORT AND  
RECOMMENDATION ON GUILTY  
PLEA AND SETTING SENTENCING  
SCHEDULE

v.  
JOSE ANTONIO GUZMAN-  
GARCIA,

**ECF No. 62**

Defendant.

On March 18, 2025, Jose Antonio Guzman-Garcia appeared before United

States Magistrate Judge Alexander C. Ekstrom and entered a plea of guilty to

Count 2 of the Indictment filed on November 7, 2024, charging him with

Possession with Intent to Distribute 400 Grams or More of Fentanyl, in violation of

21 U.S.C. § 841(a)(1), (b)(1)(A)(vi). Defendant executed a written waiver of the

right to enter his plea of guilty before the presiding United States District Judge

and a written consent to proceed before a United States Magistrate Judge. ECF

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1 No. 61. Defendant was represented by Gregory Lockwood. Assistant United  
2 States Attorney Brandon Pang appeared on behalf of the United States.

3       United States Magistrate Judge Alexander C. Ekstrom filed a Report and  
4 Recommendation on March 18, 2025, ECF No. 62, finding that Defendant is fully  
5 competent and capable of entering an informed plea, that Defendant is aware of the  
6 nature of the charges and consequences of the plea, and that the plea of guilty is  
7 knowing, voluntary, is not induced by fear, coercion, or ignorance, and is  
8 supported by an independent basis in fact establishing each of the essential  
9 elements of the crime.

10       The Court adopts the Magistrate Judge's Report and Recommendation, ECF  
11 No. 62, and accepts Defendant's plea of guilty.

12       Accordingly, **IT IS HEREBY ORDERED:**

13       1. **Sentencing Hearing:** A sentencing hearing is **SET for June 12, 2025**, at  
14 **1:30 p.m.**, in **RICHLAND**.

15       a. **Continuance Requests:** Any requests to continue the sentencing  
16 hearing **must (1)** demonstrate extraordinary circumstances, **(2)** be  
17 made by written motion, **(3)** indicate the positions of the opposing  
18 party and the U.S. Probation Officer on the continuance, and **(4)** be  
19 filed **at least three weeks** before the scheduled sentencing hearing.

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1 Any objections to the requested continuance shall be filed no later  
2 than 3 days after the motion to continue is filed.

3 b. Unless and until a requested continuance is granted, counsel should  
4 presume that the sentencing hearing will proceed as scheduled and  
5 prepare accordingly.

6 2. **Custody:** Defendant shall remain in the custody of the U.S. Marshals  
7 Service pursuant to the detention order previously entered in this matter. ECF  
8 No. 18. **If a sentence of incarceration is imposed, Defendant shall remain in**  
9 **the custody of the U.S. Marshals Service.**

10 3. **PSR:** The United States Probation Office shall prepare a Presentence  
11 Investigation Report (PSR) pursuant to Fed. R. Crim. P. 32(c).

12 a. **If defense counsel wishes to be present for the PSR interview,**  
13 **defense counsel must make themselves available to attend the PSR**  
14 **interview within 14 days of the change of plea hearing. If defense**  
15 **counsel fails to do so, the Probation Officer is authorized to**  
16 **proceed with the PSR interview without defense counsel present.**

17 See Fed. R. Crim. P. 32(c)(2). The Probation Officer has the  
18 discretion to extend the date of the PSR interview, but may not extend  
19 the interview to a date that will require a continuance of the

1 sentencing hearing. If defense counsel does not respond to the  
2 Probation Officer's communication about scheduling the interview  
3 within three days, the Probation Officer is directed to contact and  
4 advise chambers.

5 4. By the date set forth in the chart below, the Probation Officer shall  
6 disclose the PSR to Defendant, counsel for Defendant, and the United States.  
7 Disclosure of the PSR shall be subject to the limitations imposed by Rule 32 of the  
8 Federal Rules of Criminal Procedure.

9 5. **Objections to PSR:** Within 14 days of the filing of the PSR, counsel  
10 shall file any PSR objections as to legal and factual errors or omissions;  
11 sentencing classifications; sentencing guideline ranges; and policy statements  
12 contained in or omitted from the report. Objections shall be numbered and identify  
13 the paragraph(s) to which the objection applies. Objections shall address the PSR  
14 in sequential order, beginning with the lowest numbered paragraph. If an objection  
15 is filed, the Probation Officer shall conduct such additional investigation as is  
16 necessary to assess the merits of the objection.

17 6. **Final PSR:** The Probation Officer shall submit the final PSR to the  
18 Court by the date set forth in the chart below. The PSR shall be accompanied by  
19 an addendum setting forth any objections counsel made, including those that have  
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1 not been resolved, together with the officer's comments and recommendations  
2 thereon. The Probation Officer shall certify that the contents of the report, other  
3 than the sentencing recommendations, including any revisions or addenda, have  
4 been disclosed to counsel for Defendant and the United States, and that the  
5 addendum fairly states any remaining objections. Except with respect to any  
6 written objection made as required above, the PSR and computations shall be  
7 accepted by the Court as accurate. Upon a timely objection by Defendant, the  
8 United States bears the burden of proof on any fact that is necessary to establish  
9 the base offense level. The Court, however, for good cause shown, may allow that  
10 a new objection be raised at any time before the imposition of sentence. In  
11 resolving any disputed issues of fact, the Court may consider any reliable  
12 information presented by the Probation Officer, Defendant, or the United States.

13 Nothing in this Order requires the disclosure of any portions of the PSR that  
14 are not disclosable under Fed. R. Crim. P. 32. The PSR shall be deemed to have  
15 been disclosed when the PSR is docketed on CM/ECF.

16 **7. Sentencing Memos/Motions:** By the date set forth in the chart below,  
17 counsel shall file and serve all motions and memoranda pertaining to Defendant's  
18 sentence, including departures and variances, and sentencing recommendations.  
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- 1 a. Initial sentencing memoranda are limited to 20 pages, absent prior  
2 permission from the Court to file an overlength memorandum.
- 3 b. Counsel shall utilize the following format when preparing initial  
4 sentencing memoranda:
  - 5 I. Offense Level & Criminal History
  - 6 II. Departures
  - 7 III. 18 U.S.C. § 3553(a)
- 8 c. Under Section I. Offense Level & Criminal History, counsel shall  
9 discuss whether the PSR's Total Offense Level calculations (not  
10 including departures) and Criminal History calculation are correct or  
11 incorrect, providing legal authority for the party's position.
- 12 d. Under Section II. Departures, counsel shall discuss whether a  
13 downward and/or upward departure is warranted under the Guidelines  
14 and provide legal authority for such position.
- 15 e. Under Section III. 18 U.S.C. § 3553(a), counsel shall discuss whether  
16 the resulting guideline range provides a reasonable sentence  
17 sufficient, but not greater than necessary to comply with the purposes  
18 set forth in 18 U.S.C. § 3553(a)(2), considering the other factors listed  
19 in § 3553(a).

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1           e. **Failure to file and serve sentencing materials by this date, to**  
2           **include motions for upward or downward departure, will be**  
3           **deemed a waiver of the right to do so.**

4       8. **Responses:** By the date set forth in the chart below, the opposing party  
5 shall file and serve its response, limited to no more than seven (7) pages.

6       9. **Safety Valve:** If Defendant intends to qualify for the safety valve, the  
7 parties must conduct a safety valve interview to determine if the Defendant has met  
8 the requirements of U.S.S.G. § 5C1.2(a)(5) by the date set forth in the chart below.

9       10. **Witnesses/Exhibits:** If either party intends to call witnesses or proffer  
10 exhibits at sentencing, witness and exhibit lists must be exchanged by the parties  
11 and provided to the Court by the date set forth in the chart below.

12       11. **Duration:** Sentencings shall be scheduled for a total of **45 minutes**. If  
13 counsel believes that the sentencing hearing will last longer than 45 minutes,  
14 counsel shall notify Chambers by the date set forth in the chart below to ensure that  
15 sufficient time is scheduled.

16       12. **Pending Motions:** All pending motions pertaining to Defendant are  
17 **DENIED as moot**, and all pending hearing and trial dates pertaining to Defendant  
18 are **STRICKEN** from the Court's calendar.

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1           13. This Order authorizes the District Court Executive to accept  
 2 Defendant's payment in the amount of \$100 per count, for a total of \$100, toward  
 3 Special Penalty Assessments.

4           **14. Summary of Deadlines**

5           Deadline for Defense Counsel to Attend PSR Interview:	<b>April 16, 2025</b>
6           Draft PSR disclosed:	<b>May 5, 2025</b>
7 <b>PSR Objections filed:</b>	<b>May 19, 2025</b>
8 <b>Final PSR filed:</b>	<b>June 2, 2025</b>
9 <b>Motions to Continue Sentencing filed:</b> Objections to Continuance filed:	<b>May 22, 2025</b> <b>3 days after motion filed</b>
10          Safety-Valve Interview Conducted: (if applicable)	<b>May 22, 2025</b>
11 <b>Sentencing Motions &amp; Memoranda filed:</b> Responses filed:	<b>May 28, 2025</b> <b>June 5, 2025</b>
12          Deadline to notify Chambers if sentencing will require more than 45 minutes:	<b>June 5, 2025</b>
13          Witness Lists/Exhibit Lists filed:	<b>June 5, 2025</b>
	<b>SENTENCING HEARING</b>
	<b>June 12, 2025</b> <b>1:30 p.m. - RICHLAND</b>

14           **IT IS SO ORDERED.** The District Court Clerk is hereby directed to enter  
 15 this Order and provide copies to counsel, the United States Probation Office, and  
 16 the United States Marshals Service.

17           DATED April 2, 2025.

18           s/Mary K. Dimke  
MARY K. DIMKE  
19           UNITED STATES DISTRICT JUDGE

20           ORDER ACCEPTING REPORT AND RECOMMENDATION ON GUILTY  
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